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APPLICAT	וסא אסר.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
09/67	2,435	09/28/2000	John Kenyon Gerken III	RAL9-2000-0034US1	8160	
25299	759	0 03/12/2003				
IBM CORPORATION		ATION		EXAMINER		
DEP	BOX 12195 T 9CCA, BI		07700	MCCLELLAN, JAMES S		
RESEARCH TRIANGLE PARK, NC		IANGLE PARK, NC	27709	ART UNIT	PAPER NUMBER	
				3627		
				DATE MAILED: 03/12/2003		

Please find below and/or attached an Office communication concerning this application or proceeding.

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILINE DATE OF THIS COMMUNICATION.  Extension of time may be available made the provision of 37 CPR 1.75(6), in no event, however, may a reply be timely find Extension of time may be available and the provision of the period for reply specified above, he maximum statutory period will apply and will expire \$K(9) MOVTHS from the mailing date of this communication for reply specified above, he maximum statutory period will apply and will expire \$K(9) MOVTHS from the mailing date of this communication for reply specified above, he maximum statutory period will apply and will expire \$K(9) MOVTHS from the mailing date of this communication for reply specified stores. The mailing date of this communication, even if timely fixed, may reduce any exame of patter than these months after the mailing date of this communication, even if timely fixed, may reduce any exame of pattern time adjustment. Set of CFR 1.74(6).  Status  1)  Responsive to communication(s) filed on 28 September 2000.  2a) This action is FINAL.  2b) This action is non-final.  3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 1-57 is/are pending in the application.  4a) Of the above claim(s) is/are withdrawn from consideration.  5) Claim(s) is/are allowed.  6) Claim(s) is/are above claim(s) is/are withdrawn from consideration.  7) Claim(s) is/are objected to by the Examiner.  Application Papers  9) The specification is objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abovance. See 37 CFR 1.85(a).  11) The proposed drawings are required in reply to this Office action.  12) The roath or declaration is objected to by the Examiner.  Priority under 35 U.S.C. § 119(a) (or (f).  a) Aknowledgment is made of a claim for foreign priority under 35 U	• •						
Examiner   James S McCletan   3827   3827     3827   3827     3827     3827     3827     3827     3827     3827     38		Application No.	Applicant(s)				
James S McClellan  James McMclellan  James McM	Office Action Comment	09/672,435	GERKEN ET AL.				
The MAILURG DATE of this communication appears on the cover sheet with the correspondence address — Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILUNG DATE OF THIS COMMUNICATION.  1 the MAILUNG DATE OF THIS COMMUNICATION.  1 the period for reply appealed used for provides and of the Provide of the period for reply appealed used for the provide under the provides used for the provide under the provide of the period for reply appealed used for the provide of the period for reply appealed used in the state than thirty (30) days, a nephy while the statutory minimum of thirty (20) days will be considered timely.  1 the period for reply appealed above is likes than thirty (30) days, a nephy while the statutory minimum of the mailing date of his communication.  1 this period for reply appealed above is likes than thirty (30) days, a nephy while the statutory minimum of the provides of the provided the provided the provided than the provided the provided the provided the provided than the provided	Oπice Action Summary	Examiner	Art Unit				
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THE MAILING DATE OF THIS COMMUNICATION.  Extensions of time may be writing based of parts of 13 cells. In no event, however, may a reply be timely filled after ISX (6) MONTHS from the mailing date of this communication.  It is a provided to reply septimized in the provided of the communication of the parts of the pa	Period for Reply	ears on the cover sneet with the c	orrespondence address -				
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Application/Control Number: 09/672,435

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## **DETAILED ACTION**

## Election/Restrictions

- 1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-45, drawn to method and computer readable medium containing computer program product for accelerating sales transactions, classified in class 705, subclass 17.
  - II. Claims 46-57, drawn to system for accelerating sales transactions, classified in class 235, subclass 380.
- 2. The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case invention I (process) can be practiced with a materially different product. For example, invention I can be practiced without reading a card number with a card swiper.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

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- 4. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.
- 5. This application contains claims directed to the following patentably distinct species of the claimed invention:
  - A-1: payment card is a credit card (claims 7 and 30);
  - A-2: payment card is a **debit card** (claims 7 and 30);
  - A-3: payment card is a customer loyalty card (claims 6 and 29);
  - A-4: payment card is an electronic wallet;
  - A-5: payment card is a gift certificate card.

After electing from the inventions I and II listed in paragraph 1, applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 5 and 28 appear to be generic.

- 6. Additionally, this application contains claims directed to the following patentably distinct species of the claimed invention:
  - B-1: preapproval database is a keyed access file (claim 48) and
  - B-2: preapproval database is a relational database (claim 49).

After electing from the inventions I and II listed in paragraph 1, applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 47 appears to be generic.

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Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

7. A telephone call was made to John Flynn on 3/11/03 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

8. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the

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application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

## Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jim McClellan whose telephone number is (703) 305-0212. The examiner can normally be reached on Monday-Friday from 9:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski, can be reached at (703) 308-5183.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Any response to this action should be mailed to:

Commissioner of Patent and Trademarks Washington D.C. 20231

or faxed to:

(703) 305-7687 (Official communications) or (703) 746-3516 (Informal/Draft communications).

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 7<sup>th</sup> floor receptionist.

James S. McClellan
Patent Examiner
A.U. 3627

jsm

March 11, 2003